

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
NO. 4:12-CV-00054**

CYNTHIA RAE GAITHER PURVIS,     )  
   )  
          Plaintiff,                                     )  
   )  
v.   )  
   )  
PITT COUNTY SCHOOLS, et al.,         )  
   )  
          Defendants.                                    )  
\_\_\_\_\_

**ORDER**

This cause comes before the Court upon Defendants’ motion (DE-35) to stay discovery pending resolution of their motion to dismiss pro se Plaintiff’s complaint. Plaintiff has not responded, and the time for doing so has expired. In accordance with 28 U.S.C. § 636(b)(1), this matter has been referred to the undersigned. For the reasons stated herein, Defendants’ motion to stay discovery is GRANTED.

**I.     BACKGROUND**

On May 2, 2012, Plaintiff filed a complaint in this Court alleging employment discrimination based on retaliation and attaching three right-to-sue letters from the Equal Employment Opportunity Commission dated January 6, 2012. Compl., DE-5. The complaint named Pitt County Schools, Beverly Reep-Emory, and Delilah Jackson as defendants. On July 19, 2012, Plaintiff amended her complaint to add the Pitt County Board of Education as a defendant and claims of discrimination based on race and gender.

Defendants filed their motion to dismiss on October 11, 2012. The motion to dismiss asserts that the complaint is time-barred, fails to state a claim upon which relief may be based, and fails to establish subject matter jurisdiction. *See* Defs.' Mot. Dismiss, DE-23. Plaintiff has not yet responded to the motion to dismiss, despite four extensions of time to do so. The Court has directed Plaintiff to either obtain counsel or personally file a pro se response to the motion to dismiss by August 5, 2013. Order, April 15, 2013, DE-33. The parties' discovery plan is due August 1, 2013. Defendants now request that discovery be stayed pending resolution of their motion to dismiss.

## **II. LEGAL BACKGROUND**

"Rule 26(c) of the Federal Rules of Civil Procedure authorizes the court to issue orders establishing an array of limitations on discovery." Yongo v. Nationwide Affinity Ins. Co. of America, No. 5:07-CV-94, 2008 U.S. Dist. LEXIS 14684, at \*6 (E.D.N.C. Feb. 25, 2008). The court may properly exercise its discretion pursuant to Rule 26(c) to issue a stay of discovery pending resolution of dispositive motions. Tilley v. United States, 270 F.Supp.2d 731, 734 (M.D.N.C. 2003), *aff'd*, 85 F. App'x 333 (4th Cir.), *cert. denied*, 543 U.S. 819 (2004). "Factors favoring issuance of a stay include the potential for the dispositive motion to terminate all the claims in the case or all the claims against particular defendants, strong support for the dispositive motion on the merits, and irrelevancy of the discovery at issue to the dispositive motion." Yongo, 2008 U.S. Dist. LEXIS 14684, at \*6 (citing Tilley, 270 F. Supp. 2d at 735; Simpson v. Specialty Retail Concepts, Inc., 121 F.R.D. 261, 263 (M.D.N.C. 1988)). The court should not stay discovery necessary to

gather facts in defense of the dispositive motion. Tilley, 270 F. Supp. 2d at 734.

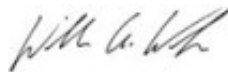
### **III. ANALYSIS**

In examining those factors as applied to this case, the undersigned determines that a stay of discovery is warranted. The pending motion to dismiss will be fully dispositive if it finds favor with the Court. Further, Defendants demonstrate strong support for their motion, raising significant issues for the Court's consideration. Finally, discovery is not relevant to the dispositive motion and not necessary for the Court's resolution of the issues raised therein. As such, in the interest of preserving the resources of the Court and the parties, a stay of discovery is warranted in this case.

### **IV. CONCLUSION**

For the foregoing reasons, Defendants' motion to stay (DE-35) is GRANTED and discovery in this matter is STAYED pending the Court's resolution of the dispositive motion. At that time, should issues then remain, the Court shall issue such other and further orders setting parameters for discovery.

DONE AND ORDERED in Chambers at Raleigh, North Carolina this 18<sup>th</sup> day of July, 2013.



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WILLIAM A. WEBB  
UNITED STATES MAGISTRATE JUDGE